

**§ 4050.2 Definitions.**

The following terms are defined in § 4001.2 of this chapter: annuity, Code, ERISA, insurer, irrevocable commitment, mandatory employee contributions, normal retirement age, PBGC, person, plan, plan administrator, plan year and title IV benefit.

In addition, for purposes of this part:

*Deemed distribution date* means—

(1) The last day of the period in which distribution may be made under part 4041 of this chapter; or

(2) If the plan administrator selects an earlier date that is no earlier than the date when all benefit distributions have been made under the plan except for distributions to missing participants whose designated benefits are paid to the PBGC, such earlier date.

*Designated benefit* means the amount payable to the PBGC for a missing participant pursuant to § 4050.5.

*Designated benefit interest rate* means the rate of interest applicable to underpayments of guaranteed benefits by the PBGC under § 4022.81(c) of this chapter.

*Guaranteed benefit form* means, with respect to a benefit, the form in which the PBGC would pay a guaranteed benefit to a participant or beneficiary in the PBGC's program for trustee plans under subparts A and B of part 4022 of this chapter (treating the deemed distribution date as the termination date for this purpose).

*Missing participant* means a participant or beneficiary entitled to a distribution under a terminating plan whom the plan administrator has not located as of the date when the plan administrator pays the individual's designated benefit to the PBGC (or distributes the individual's benefit by purchasing an irrevocable commitment from an insurer). In the absence of proof of death, individuals not located are presumed living.

*Missing participant annuity assumptions* means the interest rate assumptions and actuarial methods for valuing benefits under § 4044.52 of this chapter, applied—

(1) As if the deemed distribution date were the termination date;

(2) Using the mortality rates prescribed in Revenue Ruling 95-6, 1995-1 C.B. 80 (for availability, see 26 CFR 601.601(d));

(3) Without using the expected retirement age assumptions in §§ 4044.55 through 4044.57 of this chapter;

(4) Without making the adjustment for expenses provided for in § 4044.52(e) of this chapter; and

(5) By adding \$300, as an adjustment (loading) for expenses, for each missing participant whose designated benefit without such adjustment would be greater than \$5,000.

*Missing participant forms and instructions* means PBGC Forms 501 and 602, Schedule MP thereto, and related forms, and their instructions.

*Missing participant lump sum assumptions* means the interest rate and mortality assumptions and actuarial methods for determining the lump sum value of a benefit under § 4022.7(d) of this chapter applied—

(1) As if the deemed distribution date were the termination date; and

(2) Without using the expected retirement age assumptions in §§ 4044.55 through 4044.57 of this chapter.

*Pay status* means, with respect to a benefit under a plan, that the plan administrator has made or (except for administrative delay or a waiting period) would have made one or more benefit payments.

*Post-distribution certification* means the post-distribution certification required by § 4041.29 or § 4041.50 of this chapter.

*Unloaded designated benefit* means the designated benefit reduced by \$300; except that the reduction does not apply in the case of a designated benefit determined using the missing participant annuity assumptions without adding the \$300 load described in paragraph (5) of the definition of "missing participant annuity assumptions."

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**§ 4050.3 Method of distribution for missing participants.**

The plan administrator of a terminating plan must distribute benefits for each missing participant by—

(a) Purchasing from an insurer an irrevocable commitment that satisfies the requirements of § 4041.28(c) or § 4041.50 of this chapter (whichever is applicable); or

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(b) Paying the PBGC a designated benefit in accordance with §§ 4050.4 through 4050.6 (subject to the special rules in § 4050.12).

### § 4050.4 Diligent search.

(a) *Search required.* A diligent search must be made for each missing participant before information about the missing participant or payment is submitted to the PBGC pursuant to § 4050.6.

(b) *Diligence.* A search is a diligent search only if the search —

(1) Begins not more than 6 months before notices of intent to terminate are issued and is carried on in such a manner that if the individual is found, distribution to the individual can reasonably be expected to be made on or before the deemed distribution date;

(2) Includes inquiry of any plan beneficiaries (including alternate payees) of the missing participant whose names and addresses are known to the plan administrator; and

(3) Includes use of a commercial locator service to search for the missing participant (without charge to the missing participant or reduction of the missing participant's plan benefit).

### § 4050.5 Designated benefit.

(a) *Amount of designated benefit.* The amount of the designated benefit is the amount determined under paragraph (a)(1), (a)(2), (a)(3), or (a)(4) of this section (whichever is applicable) or, if less, the maximum amount that could be provided under the plan to the missing participant in the form of a single sum in accordance with section 415 of the Code.

(1) *Mandatory lump sum.* The designated benefit of a missing participant required under a plan to receive a mandatory lump sum as of the deemed distribution date is the lump sum payment that the plan administrator would have distributed to the missing participant as of the deemed distribution date.

(2) *De minimis lump sum.* The designated benefit of a missing participant not described in paragraph (a)(1) of this section whose benefit is not in pay status as of the deemed distribution date and whose benefit has a *de minimis* actuarial present value (\$5,000

or less) as of the deemed distribution date under the missing participant lump sum assumptions is such value.

(3) *No lump sum.* The designated benefit of a missing participant not described in paragraph (a)(1) or (a)(2) of this section who, as of the deemed distribution date, cannot elect an immediate lump sum under the plan is the actuarial present value of the missing participant's benefit as of the deemed distribution date under the missing participant annuity assumptions.

(4) *Elective lump sum.* The designated benefit of a missing participant not described in paragraph (a)(1), (a)(2), or (a)(3) of this section is the greater of the amounts determined under the methodologies of paragraph (a)(1) or (a)(3) of this section.

(b) *Assumptions.* When the plan administrator uses the missing participant annuity assumptions or the missing participant lump sum assumptions for purposes of determining the designated benefit under paragraph (a) of this section, the plan administrator must value the most valuable benefit, as determined under paragraph (b)(1) of this section, using the assumptions described in paragraph (b)(2) or (b)(3) of this section (whichever is applicable).

(1) *Most valuable benefit.* For a missing participant whose benefit is in pay status as of the deemed distribution date, the most valuable benefit is the pay status benefit. For a missing participant whose benefit is not in pay status as of the deemed distribution date, the most valuable benefit is the benefit payable at the age on or after the deemed distribution date (beginning with the participant's earliest early retirement age and ending with the participant's normal retirement age) for which the present value as of the deemed distribution date is the greatest. The present value as of the deemed distribution date with respect to any age is determined by multiplying:

(i) The monthly (or other periodic) benefit payable under the plan; by

(ii) The present value (determined as of the deemed distribution date using the missing participant annuity assumptions) of a \$1 monthly (or other periodic) annuity beginning at the applicable age.